



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

Citation: 931371 Ontario Ltd. v MacNeil, 2026 ONLTB 41561

Date: 2026-06-01

File Number: LTB-L-002612-26

In the matter of: 610, 44 OXFORD ST
BRANTFORD ON N3R6B1

Between: 931371 Ontario Ltd. Landlord

And

Laura MacNeil Tenant

931371 Ontario Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Laura MacNeil (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

931371 Ontario Ltd. (the 'Landlord') also applied for an order requiring Laura MacNeil (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on April 20, 2026.

The Landlord's agent, Alois Sablatnig ('AS'), the Landlord's legal representative, Cody French ('CF'), the Tenant, and the Tenant's legal representative, Kurt Schmuir ('KS'), attended the hearing.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. On November 17, 2025, the Landlord gave the Tenant an N5 notice of termination deemed served on November 22, 2025.
3. In the N5 notice, the landlord alleges that:
 - a) On September 15, 2025, the Tenant dumped an unknown liquid over her balcony, which landed on the balcony below hers and “the water” led to complaints from residents of other unit, and damage to other units;
 - b) On September 16, 2025, the Tenant dumped an unknown liquid off her balcony again, which landed on the balcony below hers and “the water” led to complaints from residents of other unit, and damage to other units; and
 - c) On September 17, 2025, the Tenant’s air conditioning unit was leaking an unknown substance on the exterior of the residential complex, causing staining and damage.
4. The Landlord alleges that this conduct substantially interfered with the reasonable enjoyment of the residential complex by the Landlord or other tenants, or substantially interfered with the Landlord’s lawful right, privilege, or interest; and that this was willful or negligent conduct that caused undue damage to the rental unit or the residential complex.
5. I note that relative to the September 15 and 16, 2025 allegations, in the N5 notice, the Landlord refers to the liquid at issue as both an “unknown liquid” and “the water”. The Landlord did not present any evidence about these allegations, and the application is dismissed as it relates to these allegations.
6. As for the allegations about a substance leaking from the Tenant’s air conditioning unit and staining the exterior wall of the residential complex, AS said that the staining happened over a period of time, but that he first noticed it in the Summer of 2025.
7. He said that the building colour is beige, and the stain on the building is black. He said that it begins under the Tenant’s window air conditioning unit on the sixth floor, and goes down to the ground. He said the stain is clearly visible.
8. AS said he obtained a quote for \$6,500.00 to try to power wash the stain, but said that there could be an additional cost beyond that. There was not a copy of the quote, or any other information about it presented as evidence.
9. AS believes that the stain is being caused by the Tenant’s air conditioning unit because she did not remove it during the Winter months.
10. AS said that “many months ago” the superintendent spoke with the Tenant and told her that the air conditioner was leaking, but the Tenant did not take any action.
11. The Tenant said the Landlord has never contacted her about an issue with her air conditioning unit before she was given the N5 notice. She said this window air conditioner was installed by the previous superintendent of the building in July 2022. She did not seek

explicit permission from the Landlord to install it at the time, but she assumed it was okay because the superintendent installed it.

12. The Tenant presented several photos of the exterior of the building and the air conditioner (DOC-7756228, p. 3-7). Several of the photos depict pigeons on the building. In the photo at page 7, the dark stain on the side of the building is clearly running down from just below the Tenant's air conditioner. The Tenant believes that the stain is not caused by an issue with her air conditioner, but is caused by the buildup of pigeon excrement on top of the air conditioner, which runs down the side of the building when it rains.
13. A significant amount of what appears to be bird excrement can be seen piled on top of the air conditioner (see pp. 3-4). The excrement washing down the side of the building when it rains is a plausible explanation, which I find is likely given that there are similar, albeit smaller and more faint, stains on other parts of the exterior of the building that are not under the Tenant's air conditioner.
14. For example, there is a small ledge above each window on the side of the building, and similar, albeit more faint, dark stains can be seen just under several of those ledges, including on windows that are not below the Tenant's air conditioner. This is also the case for the ledge above the Tenant's window. Given the amount of accumulated excrement on top of the air conditioner, and on the window ledge beside the Tenant's air conditioner, it is likely that there is also excrement on these other ledges.
15. To the extent that it is necessary to clean bird excrement off the exterior of the building, or to take measures to deter pigeons on or around the building, this would be the Landlord's responsibility. It cannot, however, be denied that the issue is significantly worse under the Tenant's air conditioner, likely because it is a larger surface than the other ledges in the photos.
16. This is the Landlord's application, and the Landlord bears the burden of proof on a balance of probabilities. To prove something on a balance of probabilities, one must present sufficient clear, convincing, and cogent evidence to establish that it is more likely than not that something happened or a fact is true: *FH v. McDougall*, 2008 SCC 53, paras 44-46.
17. There was not sufficient evidence to establish that it is more likely than not that the Tenant was ever asked to remove her air conditioner, or told that her air conditioner was an issue before receiving the N5 notice. I prefer the Tenant's evidence on this point over AS's hearsay evidence that a superintendent had a conversation with the Tenant.
18. I note that in the N5 notice, there is no information as to exactly how to correct the issue, except to pay the Landlord \$9,000.00. Logically, however, the N5 alleges there is an issue with the air conditioner, so presumably removing the air conditioner would address the issue.
19. The Tenant said she has not done so because it was Winter, but now that she knows her air conditioner is covered in pigeon excrement, she will remove it when the weather permits.
20. The Landlord did not present any evidence about an "unknown liquid" being poured over the Tenant's balcony, and did not present clear, convincing, and cogent evidence to prove it is more likely than not that an unknown substance is leaking from the Tenant's air

conditioner. It is more likely than not that the staining on the side of the building is caused by accumulated bird excrement washing down the side of the building when it rains. However, the issue is being exacerbated by the Tenant's air conditioner, and undue damage in the form of staining on the side of the building has been exacerbated by the presence of the air conditioner. The damage is undue because it is beyond normal wear and tear.

21. I find that it is appropriate to order that the Tenant remove the air conditioner to resolve this issue.
22. The Landlord did not present sufficient clear, convincing, and cogent evidence relative to how much it will cost to repair the undue damage. While CF submitted that the quotation that AS referred to is supported by documentary evidence and was prepared by a qualified professional, no such documentary evidence was presented during the hearing, and there was no evidence about where the quote came from, who prepared it, or what makes that person a "qualified professional".
23. The Landlord's claim for compensation is dismissed because it has not proven what amount of compensation it is entitled to.
24. In the circumstances of this case, termination of the tenancy is not warranted.
25. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall remove her window air conditioning unit on or before June 15, 2026.
3. If the Tenant fails to comply with the condition set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.

June 1, 2026
Date Issued

Mark Melchers
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.